

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
EASTERN DIVISION**

The United States moves to sever Defendants Edgar Hernandez and Martina Mendez and set a trial date for the remaining defendants. Doc. 89. On April 14, 2024, a four-count indictment was filed charging nine defendants with conspiracy to possess and distribute controlled substances, conspiracy to import controlled substances, money laundering, and continuing criminal enterprise. Doc. 1. Despite an outstanding warrant, neither Hernandez nor Mendez have not been arrested or appeared before the Court. The other seven defendants have appeared.

Rule 14(a) of the Federal Rules of Criminal Procedure states, “If the joinder of offenses or defendants in an indictment, an information, or a consolidation for trial appears to prejudice a defendant or the government, the court may order separate trials of counts, sever the defendants’ trials, or provide any other relief that justice requires.” In the federal system, there is a preference for joint trials of defendants who are indicted together. Zafiro v. United States, 506 U.S. 534, 537 (1993). But “Rule 14 recognizes that joinder, even when proper under Rule 8(b), may prejudice either a defendant or the Government.” Id. “Rule 14 leaves the determination of risk of prejudice and any remedy that may be necessary to the sound discretion of the district courts.” Id. at 541.

The United States requests the Court sever Hernandez and Mendez and set a trial date for the remaining defendants. Severance would allow the remaining defendants to have a speedy trial,

serve the ends of justice, and be in the best interests of the public and those defendants. The Court agrees that severing Hernandez and Mendez is appropriate on these facts, and the United States' motion for severance (Doc. 89) is **GRANTED**. The Court will schedule a jury trial for the other remaining defendants.

IT IS SO ORDERED.

Dated this 2nd day of July, 2024.

/s/ Peter D. Welte

Peter D. Welte, Chief Judge
United States District Court